

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN SENATE MAY 13, 2003

## **Senate Constitutional Amendment**

**No. 11**

**Introduced by Senator Alarcon  
(Coauthors: Senators Soto and Torlakson)**

February 26, 2003

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Senate Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIII A thereof, by amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to infrastructure projects.

### LEGISLATIVE COUNSEL'S DIGEST

SCA 11, as amended, Alarcon. Local government: transactions and use taxes and general obligation bonds: infrastructure projects.

(1) The California Constitution requires the approval of  $\frac{2}{3}$  of the voters voting in an election to authorize the incurrence of indebtedness by a local agency, except that in the case of a school district, community college district, or county office of education, the issuance of general obligation bonds may be approved by 55% of the voters, ~~or, in the case of repair, construction, or replacement of an unsafe public school building, by a majority of the voters.~~

This measure would authorize a local government, as defined, that is authorized to incur indebtedness for infrastructure projects to incur, with the approval of ~~a majority~~ 55% of its voters voting on the

proposition in an election, indebtedness in the form of general obligation bonds to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income; transportation enhancement activities; acquisition of land for agricultural, recreational, or open-space use and park maintenance; and general infrastructure.

Under the California Constitution, the maximum amount of any ad valorem tax on real property may not exceed 1% of the full cash value of the property with certain exceptions, including bonded indebtedness incurred by a school district for school facilities that is approved by 55% of the voters in the district voting on the proposition.

This measure would authorize, as an additional exception to the 1% maximum tax rate on real property, bonded indebtedness incurred by a local government for the construction of one or more infrastructure projects, as described above, with the approval of ~~a majority~~ 55% of the votes cast by the voters voting on the proposition.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district, other than certain school entities, upon the approval of  $\frac{2}{3}$  of the voters of the city, county, or special district voting on that tax.

This measure would authorize a local government, as defined, with the approval of ~~a majority~~ 55% of its voters voting on the proposition, to impose, extend, or increase a transactions and use tax, that it is otherwise authorized to impose, extend, or increase, if the tax is imposed exclusively to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income; transportation enhancement activities; acquisition of land for agricultural, recreational, or open-space use and park maintenance; and general infrastructure.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring,* That the  
 2     Legislature of the State of California at its 2003–04 Regular  
 3     Session commencing on the second day of December 2002,  
 4     two-thirds of the membership of each house concurring, hereby  
 5     proposes to the people of the State of California that the  
 6     Constitution of the State be amended as follows:

7     First—That Section 1 of Article XIII A thereof is amended to  
 8     read:

1 SECTION 1. (a) The maximum amount of any ad valorem  
2 tax on real property shall not exceed one percent (1%) of the full  
3 cash value of the property. The one percent (1%) tax to be collected  
4 by the counties and apportioned according to law to the districts  
5 within the counties.

6 (b) The limitation provided for in subdivision (a) does not  
7 apply to ad valorem taxes or special assessments to pay the interest  
8 and redemption charges on any of the following:

9 (1) Indebtedness approved by the voters prior to July 1, 1978.

10 (2) Bonded indebtedness for the acquisition or improvement of  
11 real property approved on or after July 1, 1978, by two-thirds of  
12 the votes cast by the voters voting on the proposition.

13 (3) Bonded indebtedness incurred by a school district,  
14 community college district, or county office of education for the  
15 construction, reconstruction, rehabilitation, or replacement of  
16 school facilities, including the furnishing and equipping of school  
17 facilities, or the acquisition or lease of real property for school  
18 facilities, approved by 55 percent of the voters of the district or  
19 county, as appropriate, voting on the proposition on or after the  
20 effective date of the measure adding this paragraph. This  
21 paragraph shall apply only if the proposition approved by the  
22 voters and resulting in the bonded indebtedness includes all of the  
23 following accountability requirements:

24 (A) A requirement that the proceeds from the sale of the bonds  
25 be used only for the purposes specified in this paragraph (3), and  
26 not for any other purpose, including teacher and administrator  
27 salaries and other school operating expenses.

28 (B) A list of the specific school facilities projects to be funded  
29 and certification that the school district board, community college  
30 board, or county office of education has evaluated safety, class size  
31 reduction, and information technology needs in developing that  
32 list.

33 (C) A requirement that the school district board, community  
34 college board, or county office of education conduct an annual,  
35 independent performance audit to ensure that the funds have been  
36 expended only on the specific projects listed.

37 (D) A requirement that the school district board, community  
38 college board, or county office of education conduct an annual,  
39 independent financial audit of the proceeds from the sale of the



1 bonds until all of those proceeds have been expended for the school  
2 facilities projects.

3 (4) Bonded indebtedness incurred by a local government for  
4 the construction of one or more infrastructure projects, as specified  
5 in subparagraph (A) of paragraph (3) of subdivision (c) of Section  
6 18 of Article XVI, with the approval of ~~a majority~~ *55 percent* of  
7 the votes cast by the voters voting on the proposition on or after  
8 the effective date of the measure adding this paragraph.

9 (c) Notwithstanding any other provisions of law or of this  
10 Constitution, school districts, community college districts, and  
11 county offices of education may levy a 55 percent vote ad valorem  
12 tax pursuant to subdivision (b).

13 Second—That Section 4 of Article XIII A thereof is amended  
14 to read:

15 SEC. 4. Except as provided by subdivision (e) of Section 2  
16 of Article XIII C, a city, county, or special district, by a two-thirds  
17 vote of its voters voting on the proposition in an election, may  
18 impose a special tax within that city, county, or special district,  
19 except an ad valorem tax on real property or a transactions tax or  
20 sales tax on the sale of real property within that city, county, or  
21 special district.

22 Third—That Section 2 of Article XIII C thereof is amended to  
23 read:

24 SEC. 2. Notwithstanding any other provision of this  
25 Constitution:

26 (a) A tax imposed by any local government is either a general  
27 tax or a special tax. A special purpose district or agency, including  
28 a school district, has no authority to levy a general tax.

29 (b) A local government may not impose, extend, or increase  
30 any general tax unless and until that tax is submitted to the  
31 electorate and approved by a majority vote. A general tax is not  
32 deemed to have been increased if it is imposed at a rate not higher  
33 than the maximum rate so approved. The election required by this  
34 subdivision shall be consolidated with a regularly scheduled  
35 general election for members of the governing body of the local  
36 government, except in cases of emergency declared by a  
37 unanimous vote of the governing body.

38 (c) Any general tax imposed, extended, or increased, without  
39 voter approval, by any local government on or after January 1,  
40 1995, and prior to the effective date of this article, may continue



1 to be imposed only if that general tax is approved by a majority  
2 vote of the voters voting in an election on the issue of the  
3 imposition, which election is held no later than November 6, 1998,  
4 and in compliance with subdivision (b).

5 (d) Except as provided by subdivision (e) , a local government  
6 may not impose, extend, or increase any special tax unless and  
7 until that tax is submitted to the electorate and approved by a  
8 two-thirds vote. A special tax is not deemed to have been increased  
9 if it is imposed at a rate not higher than the maximum rate so  
10 approved.

11 (e) (1) A local government that is otherwise authorized by law  
12 to impose, extend, or increase a transactions and use tax within its  
13 jurisdiction pursuant to Part 1.6 (commencing with Section 7251)  
14 of Division 2 of the Revenue and Taxation Code, or any successor  
15 to that law, may, with the approval of ~~a majority~~ *55 percent* of its  
16 voters voting on the proposition in an election, impose, extend, or  
17 increase a transactions and use tax to fund the purposes specified  
18 in paragraph (2).

19 (2) The revenues derived in each fiscal year from any tax  
20 imposed, extended, or increased pursuant to paragraph (1) shall be  
21 expended in accordance with the following:

22 (A) At least 20 percent of the revenues shall be expended for  
23 the construction of affordable housing for persons of very low,  
24 low, and moderate income, as defined by Section 50052.5 of the  
25 Health and Safety Code, or any successor to that statute. Not more  
26 than 30 percent of that allocation may be used to provide  
27 affordable housing for persons of moderate-income households.

28 (B) At least 20 percent of the revenues shall be expended for  
29 transportation enhancement activities, as defined in paragraph  
30 (35) of subsection (a) of Section 101 of Title 23 of the United  
31 States Code, as that section read on January 1, 2002, or any  
32 successor to that statute, including transit infrastructure,  
33 maintenance and operations, and improvements to ensure  
34 compliance with laws governing access for persons with  
35 disabilities under state law and the federal Americans with  
36 Disabilities Act (42 U.S.C. Sec. 12101 and following) or any  
37 successor to that statute, and streetscape improvements.

38 (C) At least 20 percent of the revenues shall be expended for the  
39 conservation of land dedicated to agricultural, recreational, or  
40 open-space use, and the maintenance of neighborhood parks,

1 exclusive of revenues that may be expended on project-specific  
2 mitigation.

3 (D) At least 20 percent of the revenues shall be used for general  
4 infrastructure.

5 (E) Any balance of the revenues shall be expended for any of  
6 the above purposes.

7 (F) No more than 5 percent of the revenue balance identified in  
8 subparagraph (E) may be used for administrative costs.

9 (3) For the purposes of this section:

10 (A) “Infrastructure projects” has the same meaning as “public  
11 development facilities” as that term is defined in subdivision (q)  
12 of Section 63010 of the Government Code, or any successor to that  
13 subdivision.

14 (B) “Special tax” does not include an ad valorem tax on real  
15 property or a ~~transaction~~ *transactions* tax or sales tax on the sale  
16 of real property.

17 (C) “Agricultural use,” “open-space use,” and “recreational  
18 use” have the same meanings as those terms are defined in  
19 subdivisions (b), (n), and (o), respectively, of Section 51201 of the  
20 Government Code, or any successor to those provisions.

21 (4) Prior to the election on the proposition described in  
22 paragraph (1), the local government shall inform its voters of the  
23 specific projects the transactions and use tax revenues are intended  
24 to fund under paragraph (2) for the first two fiscal years in which  
25 the tax is to be levied. If the proposition to impose, extend, or  
26 increase the tax is approved, the local government shall thereafter  
27 provide appropriate public notice, prior to July 1 of the third fiscal  
28 year in which the tax is to be levied, and biennially thereafter, of  
29 the specific projects that the revenues are intended to fund in the  
30 subsequent two-year period, including additional projects or  
31 modifications of existing projects.

32 Fourth—That Section 3 of Article XIII D thereof is amended to  
33 read:

34 SEC. 3. (a) An agency may not assess a tax, assessment, fee,  
35 or charge upon any parcel of property or upon any person as an  
36 incident of property ownership except:

37 (1) The ad valorem property tax imposed pursuant to Article  
38 XIII and Article XIII A.

39 (2) Any tax receiving, as applicable, a two-thirds vote pursuant  
40 to Section 4 of Article XIII A or Section 2 of Article XIII C, or a

1 ~~majority~~ 55 percent vote pursuant to subdivision (e) of Section 2  
2 of Article XIII C.

3 (3) Assessments as provided by this article.

4 (4) Fees or charges for property-related services as provided by  
5 this article.

6 (b) For purposes of this article, fees for the provision of  
7 electrical or gas service are not deemed charges or fees imposed  
8 as an incident of property ownership.

9 Fifth—That Section 18 of Article XVI thereof is amended to  
10 read:

11 SEC. 18. (a) Except as otherwise provided by subdivision  
12 (b), a county, city, board of education, or school district may incur  
13 any indebtedness or liability in any manner or for any purpose  
14 exceeding in any year the income and revenue provided for that  
15 year only if both of the following conditions are met:

16 (1) The indebtedness or liability is approved by two-thirds of  
17 the voters of the public entity voting at an election to be held for  
18 that purpose.

19 (2) Before or at the time of incurring the indebtedness,  
20 provision is made for the collection of an annual tax sufficient to  
21 pay the interest on the indebtedness as it falls due, and to provide  
22 for a sinking fund for the payment of the principal thereof, on or  
23 before maturity, which may not exceed 40 years from the time of  
24 contracting the indebtedness.

25 (b) (1) With respect to any public entity enumerated in  
26 subdivision (a) that is authorized to incur indebtedness for public  
27 school purposes, any proposition to incur indebtedness in the form  
28 of general obligation bonds for the purpose of repairing,  
29 reconstructing, or replacing public school buildings determined,  
30 in the manner prescribed by law, to be structurally unsafe for  
31 school use, shall be adopted upon the approval of a majority of the  
32 voters of the public entity voting on the proposition in an election.

33 (2) On or after November 8, 2000, in the case of any school  
34 district, community college district, or county office of education,  
35 any proposition for the incurrence of indebtedness in the form of  
36 general obligation bonds for the construction, reconstruction,  
37 rehabilitation, or replacement of school facilities, including the  
38 furnishing and equipping of school facilities, or the acquisition or  
39 lease of real property for school facilities, shall be adopted upon  
40 the approval of 55 percent of the voters of the district or county,



1 as appropriate, voting on the proposition at an election. This  
2 subdivision shall apply to a proposition for the incurrence of  
3 indebtedness in the form of general obligation bonds for the  
4 purposes specified in this subdivision only if the proposition meets  
5 all of the accountability requirements of paragraph (3) of  
6 subdivision (b) of Section 1 of Article XIII A.

7 (c) (1) With respect to any public entity enumerated in  
8 subdivision (a) that is authorized to incur indebtedness for  
9 infrastructure projects, any proposition to incur indebtedness in  
10 the form of general obligation bonds for infrastructure projects  
11 shall be adopted upon the approval of a ~~majority~~ *55 percent* of  
12 votes cast by the voters voting on the proposition at an election.

13 (2) The revenues derived from any general obligation bond  
14 pursuant to paragraph (1) shall be expended in accordance with the  
15 following:

16 (A) At least 20 percent of the revenues shall be expended for  
17 the construction of affordable housing for persons of very low,  
18 low, and moderate income, as defined in Section 50052.5 of the  
19 Health and Safety Code, or any successor to that statute. Not more  
20 than 30 percent of that allocation may be used to provide  
21 affordable housing for persons of moderate-income households.

22 (B) At least 20 percent of the revenues shall be expended for  
23 transportation enhancement activities, as defined in paragraph  
24 (35) of subsection (a) of Section 101 of Title 23 of the United  
25 States Code, as that section read on January 1, 2002, or any  
26 successor to that statute, including transit infrastructure,  
27 maintenance and operations, improvements to ensure compliance  
28 with laws governing access for persons with disabilities under  
29 state law and the federal Americans with Disabilities Act (42  
30 U.S.C. Sec. 12101 and following) or any successor to that statute,  
31 and streetscape improvements.

32 (C) At least 20 percent of the revenues shall be expended for the  
33 conservation of land dedicated to agricultural, recreational, or  
34 open-space use, and the maintenance of neighborhood parks,  
35 exclusive of revenues that may be expended on project-specific  
36 mitigation.

37 (D) At least 20 percent of the revenues shall be used for general  
38 infrastructure.

39 (E) Any balance of the revenues shall be expended for any of  
40 the above purposes.



1 (F) No more than 5 percent of the revenue balance identified in  
2 subparagraph (E) may be used for administrative costs.

3 (3) For the purposes of this section:

4 (A) “Infrastructure projects” has the same meaning as “public  
5 development facilities” as that term is defined in subdivision (q)  
6 of Section 63010 of the Government Code, or any successor to that  
7 subdivision.

8 (B) “Local government” has the same meaning as that term is  
9 defined in subdivision (b) of Section 1 of Article XIII C.

10 (C) “Agricultural use,” “open-space use,” and “recreational  
11 use” have the same meanings as those terms are defined in  
12 subdivisions (b), (n), and (o), respectively, of Section 51201 of the  
13 Government Code, or any successor to those provisions.

14 (4) Prior to the election on the bond proposition described in  
15 paragraph (1), the local government shall inform its voters of the  
16 specific projects that the general obligation bond proceeds will  
17 fund under paragraph (2).

18 (d) When two or more propositions for incurring any  
19 indebtedness or liability are submitted at the same election, the  
20 votes cast for and against each proposition shall be counted  
21 separately, and when two-thirds or a majority or 55 percent of the  
22 voters, as the case may be, voting on any one of those propositions,  
23 vote in favor thereof, the proposition shall be deemed adopted.

